

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

KURBY DECKER

§

v.

§

CIVIL ACTION NO. 5:06cv210

CHEQUITA DUNBAR, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S MOTION FOR RULE 59 RECONSIDERATION

The Plaintiff Kurby Decker filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Decker sued Texas Parole Board members Rissi Owens and Jose Aliseda, complaining that he has been wrongly denied parole. The Magistrate Judge recommended that these defendants be dismissed from the complaint because they have absolute immunity. This Report was adopted, over Decker's objections, and Owens and Aliseda were dismissed from the lawsuit.

Decker subsequently filed a motion for reconsideration of this decision. The Magistrate Judge reviewed this motion and issued a Report recommending that it be denied. Decker filed objections to this Report, characterizing it as the "Magistrate Judge's responsive pleading for the State of Texas." He argues that the Defendants do not have immunity because they were acting outside of their quasi-judicial functions and contends that the issue of whether to grant immunity is a question for the jury. These objections are patently without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the Report of the Magistrate Judge and the Plaintiff's objections thereto. Upon such *de*

novo review, the Court has determined that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Report of the Magistrate Judge docket no. 97) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's Rule 59(e) motion for rehearing and motion for stay (docket no. 80) is hereby DENIED.

SIGNED this 13th day of February, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE